

The Council re-assembled at the Council Chamber, Fort St. George, at 11 a.m. on Thursday the 16th March 1922, the hon. Diwan Bahadur Sir P. RAJAGOPALA ACHARIYAR AVARGAL, K.C.S.I., C.I.E., President, presiding.

I

QUESTIONS AND ANSWERS.

[Order made by the President of the Madras Legislative Council under Standing Order No. 15—

(1) Printed copies of the questions and answers to be put and given at a meeting of the Council shall be placed on the Council table an hour before the President takes his seat.

(2) The questions shall be put and answered in the following manner :—

The Secretary shall call the name of each interpellator in alphabetical order, specify the serial numbers of his questions and make a sufficient pause to allow him or any other member a reasonable opportunity of rising in his place if he is desirous of asking a supplementary question. Supplementary questions must be put immediately after the principal questions to which they relate.]

Communal representation in the Engineering staff of certain district boards.

1371 Q.—Munshi MUHAMMAD ABUR-RAHMAN SAHIB: Will the hon. the Minister for Local Self-Government be pleased to state the number of—

(a) Engineers and assistant engineers, and

(b) Overseers and sub-overseers,

in active service under the district boards of Ganjam, Vizagapatam, Gōdāvari, Kistna, Guntūr, Nellore and Chittoor, as it stood on 31st December 1921 under the following classes :—

(a) Brahmins,

(b) Muhammadans,

(c) Christians, and

(d) other non-Brahmins?

A.—The Quarterly Civil List for Madras corrected up to the 1st January 1922 contains the names of the engineers and the assistant engineers employed under the several district boards. The Government have no further information.

Report of Mr. Martin regarding forest exploitation.

1372 Q.—Mr. O. TANIKACHALA CHETTIYAR: Will the hon. the Home Member be pleased to state whether in connexion with the report made by Mr. Martin in respect of forest exploitation—

(a) any money was spent as capital expenditure;

(b) and if so, how much up to the date of his report;

(c) whether any further money was spent after his report; if any money has been spent before or after his report, whether the same is covered by any specified items of budget grant made in 1921–22 and sanctioned by the Legislative Council;

(d) if they are not covered by any specified items, from what sources the funds were drawn; and

(e) whether any portion of the money spent in connexion with Mr. Martin's investigation was spent before 1st April 1921?

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4.—(a) & (b) It is presumed that the report of Mr. Martin alluded to is that submitted by him on 26th May 1921. No capital expenditure has been incurred in connexion with that report.

(c) & (d) The following expenditure has been incurred up to date on the exploitation of the Chenai Nair forests:—

						RS.
1919-20	..	..	..	..	..	15,900
1920-21	..	..	..	..	..	1,54,300
1921-22 (first nine months)	..	..	..	..	..	1,55,200

The above expenditure is included in the sanctioned budget grants of the years to which the figures relate and took place in pursuance of administrative approval given in G.O. No. 2189, Revenue (Special), dated 27th November 1919.

(e) The cost of Mr. Martin's investigations consisted of his pay and allowances and incidental expenses during his tours in this Presidency. No portion of these charges was borne by this Government prior to 1st April 1921.

II

A BILL TO AMEND THE MADRAS PROPRIETARY ESTATES' VILLAGE SERVICE ACT, 1894, AND THE HEREDITARY VILLAGE OFFICES ACT, 1895

CLAUSE 3—*cont.*

The consideration of the Bill to amend the Madras Proprietary Estates' Village Service Act, 1894, and the Hereditary Village Offices Act, 1895, was then resumed.

Rao Bahadur C. V. S. NARASIMHA RAJU :—“ Sir, now discretion is given to district collectors to dismiss or remove a village officer. The words used are, the district collector ‘may’ dismiss or remove. From this it is clear that the district collector is given discretion. It is not obligatory on his part to dismiss him. From this I am of opinion that the words ‘except for a cause which the district collector in his discretion accepts as satisfactory’ are a mere surplusage. Now the object of section 4 of the Bill is to reduce the period of time allowed for an appeal and the object of section 5 is to remove the right of inheritance. The district collector and not sub-collectors are to deal with these cases. These are the only things contemplated. When the principal Act as well as this Act is in force in any particular area, a dismissal under the principal Act or under this Act must be distinguished, because under section 5, the words used are : ‘on such dismissal or removal, the hereditary right to the office shall, unless the collector otherwise directs, cease.’ Unless we are able to distinguish one kind of dismissal from another kind of dismissal as contemplated by this Bill, I do not think the purpose as contemplated by the new Bill can be given effect to. What is it that distinguishes a removal from dismissal under the provisions of the principal Act as compared with the provisions contained in the new Bill? Therefore in order to distinguish one removal from another, it is necessary that we should characterize a dismissal under the particular circumstances as distinguished from the other. Therefore a clause such as : a removal or dismissal on account of any neglect or resignation in consequence of any

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political movement is absolutely necessary in this Bill. As I understand the hon. Mover, the words 'in consequence of' are intended to be more comprehensive. He wanted to include cases where the office-holder on account of intimidation or other circumstances as well as of his own free will resigns office. To my mind it is too much to deprive him of the right of inheritance in cases of intimidation or coercion. If possible, it may be limited only to cases where he does the act in pursuance of any political movement and not in consequence of any political movement. Unless we make some such distinguishing feature in the provisions of this Act, the words used in this Act become quite meaningless. The section begins as: 'Notwithstanding anything contained in section 16'. We find the principles laid down in the principal Act and in this Act are the same. Why should we use the words: 'Notwithstanding anything, etc.' when there is not any distinguishing factor between this section and the section of the principal Act. Of course, the only distinguishing feature I can find is 'resignation'; as a matter of common knowledge, resignation if not accepted always results in dismissal. Dismissal is contemplated there. In order to make the sentence contain some meaning, and to give jurisdiction to the district collector to deal with the particular class of cases, it is absolutely necessary to remove the words 'except for a cause which the district collector in his discretion accepts as satisfactory' and to replace them by some such words as: 'in consequence of any political movement directed against the authority of the Government'."

Mr. A. RANGANATHA MUDALIYAR:—"Sir, I think the Government can possibly have no objection to the acceptance of this amendment. In fact the members of the Select Committee have themselves indicated the desirability of an amendment of the kind now under discussion. They have stated:

'We recognize that it would have been preferable, if it were possible to define more closely the offences against which it is intended that these powers should be used.'

"The question is whether it is not possible to define exactly the offences against which this should be used. The Government do not apparently think it impossible, for later on we find in the Select Committee report the following:

'We therefore are of opinion that it is necessary for the purpose in view to retain these powers to the collector and leave the use of them to be restricted by executive instructions if necessary.'

"If it is possible to carry out the intention of the amendment by executive instructions, I do not understand why it is not possible to embody them in the legislative enactment itself. Further, I object to discretion being given to the collectors or to anybody for the matter of that without suitable safeguards. The other day I had a case in my district where the village officer was suspended for one year because he did not supply carts in time. I think there is nothing in the provisions of the Bill to prevent an officer from construing this as a sufficient cause to justify his dismissal in his discretion. I do not want such latitude to be given to any officer. I therefore think that words like those brought forward by my hon. Friend Mr. Ramalinga Reddi had better be inserted in the section."

Mr. B. MUNISWAMI NAYUDU:—"Sir, I have great pleasure in supporting this amendment. The Act as it now stands gives ample power to the

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district collector or the divisional officer when removing or dismissing a village officer to make an order that no member of his joint family can succeed to the office so long as that particular member is alive. The provision is therefore already in existence in the present Act by which if, under the circumstances corresponding to the present one, a district collector thinks it desirable that any member of a joint family who is likely to be influenced by the previous man should be kept out of office so long as the previous man is alive, he may pass an order to that effect. By this amendment Act the collector is proposed to be empowered not only to block succession during the lifetime of the village officer who has been dismissed or removed but also to block the descendants of the members of the family, divided or undivided, for all time to come. That is an extraordinary power. When the present Bill was introduced for taking away the hereditary title which these officers were entitled to, it was clearly stated that it was for the purpose of meeting a situation of the sort that had arisen in the country by reason of the village officers refusing to collect taxes or refusing to do the work which they were bound to do, thus embarrassing the Government. The Bill was referred to a Select Committee and the Select Committee has limited its operation to 31st December 1923. We have therefore got a Bill intended for a particular purpose and to meet a particular situation. If this House is asked to give powers that are not absolutely necessary for the purpose of meeting the situation, then I submit this House cannot accept the proposal without sufficient safeguards. It is not that this Bill is intended to be in force for all time to come. It is not a Bill for all emergencies and exigencies that may arise, but it is a Bill for the particular purpose of tiding over the present situation. It is also stated that this Bill is intended to strike terror into the minds of the village officers so that they may not embarrass the Government by resigning their offices or by refusing to collect taxes or otherwise. That purpose would certainly be achieved by defining strictly the object of this legislation; that is that it is intended to deprive the village officers of their hereditary right if they should resign their offices in consequence of any political movement directed against the authority of the Government. It is right that those who embarrass the Government in consequence of a deliberate conspiracy should be punished. But, Sir, let us be honest and straightforward in our actions and let us say to them that we shall punish them only under such and such circumstances. Let us suppose that the village officers join together and resign on the ground that their emoluments are not adequate and let us suppose that they demand higher salary. If village officers resign on that account, is it fair that their act should entail forfeiture of their hereditary right? I do not think such a wide discretion should be given to the collectors. It will certainly be going far beyond the needs and the requirements of the present situation. This amendment and another amendment of the same nature which I have tabled are brought forward evidently with the object of being plain and straightforward in enacting this extraordinary piece of legislation. This legislation is intended only for one purpose and beyond that purpose we are not inclined to go. Therefore it is that the amendment clearly makes out that if a village officer resigns in pursuance of a policy intended to subvert Government with a view to embarrass the Government, then not only he but also

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all the members of the joint family must go. If the village officers take the matter into their hands and defy the Government, then they should certainly suffer for their acts.

“What will happen if this amendment is not accepted? When a village officer resigns his office even when there is no non-co-operation, it will be open to the collector in his own way to say that the village officer should go. In that case, no doubt, there will be an appeal to the Board of Revenue. This Act comes into operation by a notification and surely the notification will issue only on the initiative of the district collector. Naturally if the appeal goes to the Board of Revenue they may concur with the collector in his order of removal or dismissal. Therefore even the appeal which is provided would be illusory and unless we are very definite in our statement that the Act is intended only to meet a particular purpose the scope of the Bill would be widened. And it is undesirable to vest such extraordinary powers in the collector.”

11-15 a.m. Mr. N. A. V. SOMASUNDARAM PILLAI:—“Sir, I heartily support this amendment. The principle involved in this amendment is so simple that I thought there would be no necessity for any discussion. For, a consideration of the effects and circumstances will clearly remove any doubt that might possibly exist in the matter. The Government recognize that certain village offices carry hereditary rights for the reason that the families of the office-holders have been holding the office for a number of generations, and certain rights are attached to this office. Sometimes the persons holding this office resign to see that their sons or others in whom they have an interest succeed them without any trouble in their lifetime. In such cases naturally the office would carry with it a hereditary right. Now owing to the non-co-operation movement certain village officers embarrass the Government; because of this the hereditary right of all the village officer should not be abolished. Those persons who take part in the non-co-operation movement and place obstacles in the way of the Government are not certainly entitled to claim hereditary right; they must be deprived of it by all means, and such is the wish of the House. I have absolutely no sympathy for any non-co-operator. I want to see that if a village officer on account of non-co-operation spirit in him resigns his office and places the Government in a difficulty, he should be deprived of his hereditary right hitherto recognized by the Government as attaching to his office. But the village officers may resign owing to natural causes. Then according to section 3 as drafted in this Bill, if a person tenders his resignation unless the collector is satisfied that the resignation is for satisfactory reasons, he is liable to dismissal, and his heirs are liable to be deprived of their succession rights. But I maintain that the penalty of depriving the hereditary right must attach only to those cases wherein a resignation is made on account of non-co-operation, or as stated in response to some political movement directed against the authority of the Government. In the Bill as now drafted in all cases of resignation it will depend on the sweet will and pleasure of the district collector to decide whether the heir of the man who resigned succeeds or not. It is for the collector to say whether he accepts the resignation as satisfactory or not. Even if a person resigns his office owing to natural causes having nothing to do with the non-co-operation movement, under clause 3 as it now stands the onus is

[Mr. N. A. V. Somasundaram Pillai] [16th March 1922]

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thrown on him to prove that the resignation is for a satisfactory cause. It is altogether against British code of justice. This amendment seeks to rectify that defect. Without this amendment the village officers would be left to the mercy of the district collectors who are under the influence of tahsildars; it would work unnecessary hardship on the village officers; it is not to the interests of the Government that there should be any such discontent or heart-burning in the case of officers on whom the prosperity and good government of the country depends."

Mr. P. VENKATASUBBA RAO :—"I have much pleasure in supporting this amendment. I have also given notice of a similar amendment. This Bill, Sir, is the direct result of the unfortunate movement that was started in the Pedanandipad firka, Guntur district. I should like to know whether it is not the intention of the Government to protect the village officers who are intimidated into resigning their posts. Certain officers in the said area have resigned their offices under pressure and they have taken the earliest opportunity of withdrawing their resignation. This Act, as it stands, does not protect any of that class. I think it will only be right for the Government that their loyal officers who are threatened or forced to resign should not be further victimised by this Bill. As pointed out by Mr. Muniswami Nayudu, officers may resign for various reasons. They may be dissatisfied with their pay. One of the reasons for which village officers in Pedanandipad firka have resigned is that their salaries are very inadequate. My information is that a majority of them have assigned their low salaries as a reason for their resignation though their action has been misrepresented by the Government and the press as being due to non-co-operation. The Bill invests the collector with absolute powers and unless there are sufficient safeguards introduced to prevent an abuse of power it will harm many an innocent officer. The amendment of my hon. Friend Mr. Ramalinga Reddi makes it clear that non-co-operating village officers only will be dismissed."

The hon. Mr. K. SRINIVASA AYYANGAR :—"Sir, the Government have absolutely no idea of punishing any person or inflicting any hardship except in cases where the movement is directed against the Government in pursuance of what is called the non-co-operation movement with its idea of embarrassing the Government in its ordinary functions or of paralysing it. If a village officer whose duty it is to perform certain duties which are absolutely necessary for the efficient performance of its functions by Government declines to do it on critical occasions, the House will see that it would be a very difficult matter indeed to carry on the administration of the country. It is therefore intended to provide this remedy only in those cases and, so far as I can see, the House is also anxious to provide that remedy, but perhaps not to the extent required by us. It is for the purpose of restricting the power that these amendments are pressed. There is one difficulty if the amendment is accepted. The words are varying and are not capable of precise definition. The decision of the collector is capable of being challenged in a court of law and the court that will sit in judgment will have to take evidence and can come to a different conclusion from that of the collector, that the resignation is not in consequence of a political movement.

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There should be no objection, really to the court sitting in judgment if there were any precise standard by which you can judge whether the resignation was in consequence of any political movement; for almost every act can be brought within the definition of a political movement; every agitation is intended for a political purpose in the long run, whether directly or indirectly. That, Sir, is really the difficulty in the Government accepting the amendment as it stands. If, for instance, the wording was 'in consequence of any political movement which in the opinion of the district collector is directed against the authority of the Government' this *impasse* may be avoided. So far as I can see the object of the members of the House would be served because there would be an appeal from any perverse judgment of the collector to the Board of Revenue and the Government also may have a power of revision. If you will allow me I shall propose the following as an amendment to the amendment of Mr. Ramalinga Reddi :—

'After "movement" and before "directed" add the words "which in the opinion of the district collector is".'

Permission having been given, the amendment was moved.

The hon. Sir LIONEL DAVIDSON :—"I second it."

11-30 a.m. Mr. C. RAMALINGA REDDI :—"I hesitate to accept the amendment proposed by my hon. Friend for the following reasons. One is this Act will come into operation only in areas specified by the Government and about which presumably there would be no better authority than the Government itself. Under those conditions, to add these words, namely, 'which in the opinion of the Collector is directed against the authority of Government,' is to give to a subordinate of the Government a discretion which in a way has already been answered and settled for him by the Government. I would like in this connexion, with your permission, to refer to an amendment of mine circulated yesterday which was to the effect that in respect of this particular jurisdiction the collector should act in consultation with a committee of non-officials to be appointed by the Government. I think if Government would kindly see their way to accept that also it would be possible to come to an agreement which would satisfy the necessities of the case and the desires of this House. As the matter stands, it would be conferring on the collectors too wide powers which it is the almost universal intention of this House to protect the village officers from. It is not a question, Sir, whether we as individuals have confidence in the collectors or not. That was the red-herring which my hon. Friend the Revenue Member drew across the trail yesterday. If you are going to settle all the questions that are the subject of debate between the Executive and the Legislature on this ground of confidence, I am afraid there will be very little reason why there should be a Legislature at all. It is not a question of individual confidence. Here we are in our own capacity, just as Government are in their capacity, trustees and custodians of popular interests. As Government believe in the efficacy of executive orders, we by our very nature as members of this Council believe in the efficacy of legislative measures. We believe that safeguarding by legislation is a far more educative as well as effective process than leaving matters to the discretion of the executive. After all, as has been pointed out by more than one hon. Friend who took part in this debate,

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Clause 3—*cont.*

these measures will be administered by the lower subordinates in the service of the Government. But there is such a thing as non-co-operation against a particular official as in the matter of milk or cart supply. We know, Sir, that India has been described as the land of gods. India, to my mind, is more the land of tin gods than of gods proper. We know the temperament of the officials and we know how easily they mistake themselves for the Government. Doubtless, any discourtesy shown to them will be interpreted as disloyalty to the British Raj itself. In those conditions, unless the machinery which I propose to set up in the subsequent section is accepted it would not be possible to agree to the present amendment which in no way provides the safeguard that it is our intention to insert in this Bill. It has been said that 'political movement' in the expression 'in consequence of any political movement directed against the authority of Government' is a very vague term. I have tried to add a definition to it by the qualification 'directed against the authority of Government. The appellate authority under this Act is the Board of Revenue. I believe the Board of Revenue would be in a position to adjudicate on a simple matter of this kind. Above all, let us go to the two fundamental propositions, the Statement of Objects and Reasons and the considered opinion of the Select Committee. In the Statement of Objects and Reasons, provision is sought to deal with organised attempts at paralysing the Government. Now, we are not dealing with people who like thieves act in the dark. Undoubtedly, there would be something like intimidation. But they are all covered by the expression 'in consequence of any political movement,' whether the consequence be one due to his own free will or to his fear or any other motive or consideration. Then, again, the Select Committee have admitted that the present Act proposes to vest in the district collector too wide powers. Now, I ask the simple question of my friend the hon. the Law Member, if it is true that the Act as originally drafted invested the collector with powers admittedly too wide, how could this discretion which he himself has to exercise and of which he is to be the final and sole judge in any way curtail those wide powers? Under those conditions, I regret that in spite of every effort to agree to the standpoint of the Government I cannot see my way to accept this."

Mr. C. V. VENKATARAMANA AYYANGAR :—" Will I be in order if I speak on the amendment of the hon. the Law Member? "

The hon. the PRESIDENT :—" What is now before the House is the amendment proposed by the hon. the Law Member. That is the only amendment now before the House."

Mr. C. V. VENKATARAMANA AYYANGAR :—" Anyhow, my own opinion is that the various amendments proposed and the various arguments *pro* and *con* advanced in speaking on the various amendments clearly show that there is absolutely no necessity to have this repressive measure. But if the majority of the House are agreed to have this repressive measure, as they have done, I really do not understand the difficulty in Mr. Reddi's accepting the amendment of the hon. the Law Member. I thought the amendment of the hon. the Law Member made the amendment of Mr. Reddi easier and less full of difficulties. In these repressive measures, it is desirable that not only the measures but the consequences of the measures are brought to an end at an early date. If the orders of the Collector or the Revenue Board are matters

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of adjudication in civil courts, the difficulty will be that the suits and appeals will be pending for several years after the Act itself is put an end to. After all, by the majority of the Council it has been declared to have the Act in force for one and a half years only, and the original amendment of Mr. Reddi limits the powers of the Collector very much. Now, it is clear that the resignation or any other act must be due to a political movement. It certainly cannot apply to resignations in consequence of the non-supply of milk or of a cart. I do not think any Collector, however perverse he may be, will hold that non-supply of milk or cart by an individual officer is in consequence of a political movement. Unfortunately, Mr. Reddi has not carefully defined the expression 'political movement.'

"Now, the question is who ought to decide whether a particular measure is political or not. We are giving the Government now ample powers in declaring which portions of the Presidency are to be subject to this measure. If in a particular place the exigencies of the anti-Government movement are so strong that the Government wants to introduce this measure, it is not, I think, desirable that the question as to whether a particular action is or is not a political movement which is likely to embarrass the Government should be left to the decision of the civil court. As has been pointed out by the hon. the Law Member, this opinion of the Collector is not final. It is subject to appeal to the Board of Revenue and then it is subject to revision by the Government itself. The district munsif or any body who is dealing with evidence cannot decide whether a certain political movement is likely to embarrass the Government, or not, and then the matter will have to go to the higher courts and lastly probably to the Privy Council also. So it is very desirable that we should leave it in the hands of the Board of Revenue in whom we have confidence. Therefore, I think it is better that we accept the amendment that has been proposed by the hon. the Law Member as it seems to be quite sufficient and, in my opinion, to be more in favour of the public or the village officers than the vague wording of the original amendment. So, with these words, I have great pleasure in supporting the amendment of the Law Member."

Mr. S. SOMASUNDARAM PILLAI:—"Sir, I have considered this question very deeply. I think if the amendment on the agenda is accepted, it will be to make the village officer fall from the frying pan into the fire. As it is, it is very easy for him to satisfy the Collector. If he is compelled by the non-co-operators to resign, what should he do? Certainly he should go to the nearest post office and write a letter saying: 'I am compelled by so and so to resign: unless I am protected by the Police I will have to resign and go away.' So, that is the easiest way to satisfy the Collector when he is compelled to resign his post. Suppose we have accepted the amendment of Mr. Ramalinga Reddi. It will make his position worse. For here the burden of proof is shifted from the village officer to the Government, and the poor man will be in the clutches of the police constables. The Police will be always bent upon proving that the resignation was in consequence of a political movement. So, as it is, in my opinion, the amendment of the hon. the Law Member is more acceptable. It is plainer. It shows that the Collector's discretion is necessary and it is the Collector who will be in a position to decide such cases. If such cases are sent to the civil courts to be

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tried on evidence it will take two or three years for each case. Why should we doubt the honest discretion of the Collector? He is entrusted with the administration of the whole district. With these few words, I oppose the amendment and, on the other hand, approve of the amendment of the Law Member."

Mr. P. SIVA RAO :—"Sir, the amendment now proposed by the hon. the Law Member certainly meets the wishes of the House.

11-45 a.m. The only difference so far as I can make out between the amendment proposed by him and the one proposed by the hon. Mover Mr. Ramalinga Reddi is that by the former one the right of suit is taken away. Yesterday, Sir, when I spoke on the amendment moved by Mr. Ramalinga Reddi I said: if it was necessary to take away the right of suit, by all means let it be done by the insertions, if necessary, of a provision that the orders of the Board shall be final. Now, Sir, the right of suit if it is once given would militate against the whole object of this repressive measure. In the case of a resignation under the powers vested in the Collector it is open to him now to dismiss him and I do not think, Sir, that he has got a right of suit. If the dismissed village officer has no right of appeal for the present on the ground that the Collector has passed an erroneous judgment of dismissal against him (village officer) much less reason is there, Sir, for the preservation of this right of suit under the present Bill. Now, just let us see what will follow if the Collector thinks that the resignation tendered was in consequence of a political movement which, in his opinion, was directed against the authority of the Government. He may dismiss the village officer instead of accepting his resignation. Surely in the present temper of the people of the tract to which this notification would apply they are certain to carry the matter to a munsif's court, to a district court and then to the High Court. Thus the proceedings will be rendered tardy and dilatory and the object of this measure defeated. Therefore what I wish to say is this: there should be some indication in the Act itself as to the circumstances under which the Collector can proceed under this Act and so long as we have that indication, I am not very keen about the vesting in him the right of suit in a matter like this. As I said already there is no right of suit vested in him even in the present Act in case the Collector by an error of judgment dismisses him. Under the circumstances I do not see any reason why there should be a right of suit for the man if the Collector passes an erroneous judgment *in a case like this.*"

The hon. Mr. K. SRINIVASA AYYANGAR :—"Sir, I want to draw the attention of the Council to this fact. As I said at the outset, I do not want the same question tried by a court of law without having any particular standard or definite standard. At the same time it must be remembered that this direction which, in my amendment, I am giving to the Collector will be a clear direction to him that he is not entitled to dismiss a person when he tenders his resignation so as to deprive him and his family of their hereditary right unless the resignation was in pursuance of a political movement directed against the authority of the Government. Without this, if the section were left as it is then the case will be one within the discretion of the Collector generally. Without any statutory direction to him that the cause should be

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Clause 3—*cont.*

one which must be in pursuance of a political movement directed against the authority of the Government, the Collector may dismiss for any cause he thinks satisfactory. With my amendment whether the resignation is due to political causes or not is for him to judge and will be within his discretion. But his act is not purely an executive act which he is at liberty to make sitting in his chambers without anybody else knowing about it. For, under section 4, he must, before making an order given an opportunity to the holder of the office to show cause against such removal or dismissal and must also record his reasons in writing. From that, the dismissed officer can go to the Board of Revenue and the Board of Revenue again, practically as a judicial authority, would look into the matter and see whether the resignation was in pursuance of a political movement intended to subvert the authority of the Government. I cannot see in the circumstance what advantage there is in trying to take the case to a civil court, if at all such a suit lies. My attention has been drawn to section 21 of the Principal Act which has not been abrogated and which says that suits as to titles to office shall not be entertained in a civil court. All I want really to do is to make it clear that the collector has the discretion subject to the definite direction given in the statute. I do not think, Sir, that my amendment proposes any drastic change. I believe it carries out the wishes of the House."

The hon. the PRESIDENT :—"Does the hon. Member Mr. Ramalinga Reddi wish to say anything?"

MR. C. RAMALINGA REDDI :—"Mr. President, I do not think that I could accept the amendment moved by the hon. the Law Member, because in one of the subsequent clauses, i.e., clause (5), it is proposed that no person shall have the right of suit in a court of law in case of dismissal or removal arising from the operation of this Act. The appeal that lies in such cases is only to the Board of Revenue. Under these conditions, I fail to see why the Government should be so much in fear about the judiciary stepping in and interfering with the decisions of the executive. Even supposing that it would be so, it seems to me that it is more desirable on all grounds for the people to have a judicial decision. It has been said that litigation would increase in the law courts. Now, as the Act stands, there is nothing to prevent the collector from exercising his authority and dismissing a person who in the opinion of the collector has joined any political movement directed against the authority of Government. When this is done, this will itself act as a deterrent. The man has been punished and even if he is going to sue, that alternative could only mean the right to sue and he could only obtain a judicial decision after he has spent a lot of money. Under these conditions, I do not think that leaving the powers of the collector and his discretion exactly where they were in the original Bill and which the select committee reports were too wide, would be in consonance with the real object which it is the intention of this amendment to attain.

"My hon. Friend, the Law Member wound up by saying that his amendment did not introduce any drastic change. That is precisely the reason why I cannot accept it. We want some change, or some curtailment of the discretion vested in the collector as proposed in the original Bill.

"The hon. the Law Member's amendment that, after the word 'movement' and before the word 'directed' in the amendment of the hon.

[Mr. C. Ramalinga Reddi]

[16th March 1922]

Clause 3—*cont.*

Member Mr. C. Ramalinga Reddi, the words 'which in the opinion of the district collector is' be inserted, was put to the vote and carried, 37 voting *for* and 17 *against* it."

A poll was taken with the following result :—

Ayes.

- | | |
|--|--|
| 1. The hon. Sir Lionel Davidson. | 19. Mr. S. T. Shanmukham Pillai. |
| 2. " Sir Charles Todhunter. | 20. Rao Bahadur T. Balaji Rao Nayudu. |
| 3. " Khan Bahadur Muhammad Habib-ul-Jah Sahib Bahadur. | 21. Mr. V. Pakkiriswami Pillai. |
| 4. " Mr. K. Srinivasa Ayyangar. | 22. Mr. K. Sitarama Reddi. |
| 5. " Mr. P. Ramarayanar. | 23. Mr. T. Somasundaram Mudaliyar. |
| 6. " Rai Bahadur K. Venkata Reddi Nayudu. | 24. Mr. S. Somasundaram Pillai. |
| 7. " Rao Bahadur A. P. Patro. | 25. Mr. T. C. Tangavelu Pillai. |
| 8. Mr. T. E. Moir. | 26. Diwan Bahadur E. Venkataratnam Nayudu. |
| 9. Mr. M. E. Couchman. | 27. " M. Krishnan Nayar. |
| 10. Mr. A. B. Rencontre. | 28. Mr. P. Siva Rao. |
| 11. Mr. N. Macmichael. | 29. Mr. C. V. Venkataramana Ayyangar. |
| 12. Mr. F. J. Richards. | 30. Mr. S. Muttumanjika Achari. |
| 13. Mr. C. W. E. Cotton. | 31. Mr. K. V. Ramachari. |
| 14. Mr. R. Littlehailes. | 32. Sriman Sasi Bhushana Rath Mahasayo. |
| 15. Mr. R. K. Shanmukham Chettiyar. | 33. Mr. S. Arpudaswami Udaiyar. |
| 16. Mr. A. Ramaswami Mudaliyar. | 34. Rao Sahib E. C. M. Mascarenhas. |
| 17. Mr. R. Appaswami Nayudu. | 35. Mr. Sayid Diwan Abdul Razzaq. |
| 18. Diwan Bahadur Sir P. Tyagaraya Chettiyar. | 36. Rao Sahib P. Venkatarangayya. |
| | 37. Diwan Bahadur Govindoss Chathurbujadoss. |

Noes.

- | | |
|--|--|
| 1. Mr. K. Adinarayana Reddi. | 10. Mr. W. P. A. Saundara Pandia Nadar. |
| 2. Rao Bahadur K. Gopalakrishnayya. | 11. Mr. N. A. V. Somasundaram Pillai. |
| 3. Mr. C. Ramalinga Reddi. | 12. Dr. P. Subbarayan. |
| 4. Mr. W. Vijayaraghava Mudaliyar. | 13. Mr. P. Venkatasubba Rao. |
| 5. Mr. J. Kuppuswami. | 14. Diwan Bahadur M. Ramaachandra Rao Pantulu. |
| 6. Mr. B. Muniswami Nayudu. | 15. Rao Bahadur C. V. S. Narasimha Raju. |
| 7. Mr. A. T. Muttukumaraswami Chettiyar. | 16. Mr. A. Ranganatha Mudaliyar. |
| 8. Mr. P. T. Rajan. | 17. Mustapha Ravuttar Ahmad Miran Sahib. |
| 9. Rao Bahadur A. Ramayya Punja. | |

Mr. Ramalinga Reddi's amendment, as amended at the instance of the hon. the Law Member, i.e., *Omit* all the words after 'resignation' occurring in lines 10 and 11 of the clause and *insert* 'in consequence of any political movement which in the opinion of the district collector is directed against the authority of Government' was then put and carried.

Amendments 7 to 14.

The following amendments were not moved :—

Mr. B. MUNISWAMI NAYUDU :—

7. *Omit* the words beginning from 'except' to the end of the clause and substitute the following :—

"in consequence of any political movement intended to subvert the Government."

Mr. T. ARUMAINATHA PILLAI :—

8. *For* the words 'except for a cause which the District Collector in his discretion accepts as satisfactory' substitute the following :—

"in consequence of any political movement intended to subvert the existing system of Government."

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Clause 3—cont.

Mr. P. VENKATASUBBA RAO:—

9. Delete the words beginning with 'except' up to 'satisfactory' and substitute the following:—

"out of sympathy for any disloyal movement directed against the Government."

Dr. P. SUBBARAYAN:—

10. For the words from 'except' to the end of the clause substitute 'in consequence of a political movement directed against the constituted Government of the country.'

Mr. A. RANGANATHA MUDALIYAR:—

11. Substitute the words 'with a view to subvert the authority of Government or otherwise bring the administration into contempt' for 'except for cause which the District Collector in his discretion accepts as satisfactory.'

Rao Bahadur K. GOPALAKRISHNAYYA:—

12. In line 11 of the clause for the words beginning with 'except' up to the end of the clause substitute the following words:—

"in consequence of a strike of work with a view to embarrass the Government."

Mr. P. SIVA RAO:—

13. Add the following after the words 'his resignation':—

"for political reasons and with a view to non-co-operate with or to cause embarrassment to Government."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—

14. For the words 'except for a cause which the District Collector in his discretion accepts as satisfactory' substitute the following words:—

"for political reasons so as to cause embarrassment to the Government."

[If the above amendment is not carried, for the words 'in his discretion accepts' substitute the words 'after due inquiry finds'.]

Amendment 14 (a).

12 noon.

The following amendment which stood in the name of Mr. C. Ramalinga Reddi was then taken up:—

14 (a). In line 12 omit 'in his discretion' and substitute therefor 'acting in consultation with an advisory committee of non-officials to be appointed by Government for this purpose'.

The hon. the PRESIDENT:—"Amendment 14 (a) will now be out of order because the word 'discretion' does not occur in that clause as amended, but I have no objection to hear what the hon. Member Mr. Ramalinga Reddi has to say on the point."

Mr. C. RAMALINGA REDDI:—"Mr. President, I am very thankful to you for giving me this opportunity of presenting my case in regard to the point of order. The amendment which has just been carried interferes with the

[Mr. C. Ramalinga Reddi]

[16th March 1922]

Clause 3—*cont.*

form and wording of the clause to which amendment 14 (a) was intended to refer. I would like, if you permit me, Sir, to move the following amendment in place of that which stands in my name now. In the clause as just now amended, insert after the words 'in the opinion of the district collector,' the following words:—

'acting in consultation with an advisory committee of non-officials to be appointed by Government for this purpose.'

"That is the amendment which I now, with your permission, Sir, propose to move."

The hon. the PRESIDENT:—"So the hon. Member does not propose to move the amendment in the original form at all. But he wants to move another amendment in this form: to insert after the words 'district collector' and before the word 'is', the following words:—

'acting in consultation with an advisory committee of non-officials to be appointed by Government for the purpose.'

"Probably it would be convenient if I now indicate to the House how the clause will read if the hon. Member is given permission to move his amendment and if that amendment is carried. The clause will then run thus:

'Notwithstanding anything contained in section 16 in consequence of any political movement which in the opinion of the district collector, acting in consultation with an advisory committee of non-officials to be appointed by Government for this purpose, is directed against the authority of Government.'

"Does any hon. Member object to the amendment now going forward in that form?"

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Yes, Sir, I do object."

The hon. the PRESIDENT:—"May I know on what grounds."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Even the original amendment, Sir, was out of order. But, however, you were good enough to give the hon. Member an opportunity to explain how, in the altered circumstances of the case in view of the acceptance of the amended amendment of the hon. the Law Member, this could fit in very well. And now, as you would see, Sir, even the amendment as was framed by Mr. Ramalinga Reddi has to undergo another amendment. That is why I say that we are not now confined to the amendment which was put into our hands last evening at 4 o'clock, but we are now asked to consider another amendment which he now for the first time seeks permission to move."

The hon. the PRESIDENT:—"Ordinarily I much dislike suspending these standing orders and excusing members from giving the notice required. But it so happens that this particular amendment was referred to in the course of the debate on the last amendment. I believe, the hon. Member Mr. Ramalinga Reddi referred to this particular amendment and I am doubtful how far that has influenced hon. Members who gave their votes on the last occasion. This is a point which has to be considered. I would allow the hon. Member to move his amendment."

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Clause 3—*cont.*

Mr. C. RAMALINGA REDDI:—"Mr. President, I thank you for your ruling by which I am enabled to take the sense of this House on this amendment. My sole desire in formulating this proposal is to see that no hardship or injustice is inflicted. It would be of great help if, at a time and in places where confessedly the atmosphere is in a disturbed condition, the District Collector is given the assistance of the best possible responsible non-official opinion that is obtainable in the district. I may point out, Sir, that I am given to understand that the District Collector is associated with non-officials in the United Provinces. Here again, I would guard myself against making myself responsible for any statement whether direct or by inference conveying the idea that we have not confidence in the District Collectors. At the same time, it would be open to the non-official public to bring forward the argument, which we would do well to consider, whether in resisting this amendment we are not making a reflection of the same nature against the best possible non-official opinion which might be associated by Government with the Collector. We want as far as possible complete confidence to be established between the people and the Government, and it cannot be done only by one side being asked to co-operate with the other without the other side having any reciprocal duty to consult the former. If this amendment is carried, it will go far to allay the apprehensions of the people as to how this measure would be worked, and the committees which this amendment contemplates to be formed in the districts would render much help to the people of such districts by being associated with the District Collectors. The Collector, Sir, is a hard-worked official and in times of political stress, he is not likely to have less work. Therefore, viewed from any point of view, we would in a way be strengthening him by associating with him, in discharging his responsibilities and in the execution of an exceptional measure of this kind, non-officials of standing and position. Far from going to weaken the Government, it would strengthen them just as the Executive Government has become strengthened by association with the legislature. I may add, Sir, that I strongly believe that these advisory committees will not in any way interfere with the powers of the Collectors. With these words I place the amendment before the House."

Mr. O. TANIKACHALA CHETTIYAR:—"Sir, I have much pleasure in seconding this amendment. I do believe that the saying 'in a multitude of counsellors there is wisdom,' is as true to-day as in the days of king Solomon. It would be an advantage to the Collector to have the opinions of a body of non-officials chosen by him on account of their respectability or status in the country. So, to guard against the possibility of exposing the Collector to the attack that he is exercising the power that is vested in him by this section capriciously or perversely, the protection of this opinion which he can obtain from people of this class is necessary. Moreover, we have by this piece of legislation given very extraordinary powers to the Government in times of emergency and stress. But it is also at the same time our duty to give a certain amount of protection to the village officers who would be affected by this piece of legislation. I think it is necessary, because we are now depriving the village officer of the right of recourse to courts which he had under the old law, that he should have some remedy provided against the capricious exercise of this power. We are not attributing to the Collectors

[Mr. O. Tanikachala Chettiayar]

[16th March 1922]

Clause 3—*cont.*

any intention or desire to act wrongly or without material evidence. But it unfortunately happens that the Collectors have their assistants, their subordinates and, owing to the nature of things and the nature of the institutions over which they are presiding, they (the Collectors) are obliged to look to them for assistance, and we know that in places where extraordinary powers created under stress of circumstances come to be exercised, a great deal of abuse takes place by the subordinate officers of which the higher officers concerned are, no doubt, unconscious. Even in times when the non-co-operation activities render it necessary that the law should be put in force, we should devise such measures as would protect the innocent from being subjected to oppression at the hands of underlings in the Collector's office. Therefore as a measure of protection we should enact like this. It cannot be said that the Government will be deprived of the remedy that it has in putting down non-co-operation by reason of the association of men of respectability in the district after all to be chosen by the Government. Sir, I believe also that we still adhere to the doctrine that it is much better that a hundred guilty men should escape rather than that one innocent man should suffer. While therefore we do provide for severe and stern action against wrong-doers we must also provide that those who do not do wrong should not become victims of a machinery which is likely to comprise also such innocent men. No doubt, Sir, Government will make a declaration that this Act shall be in force in a certain area only when occasion arises. But when the occasion has arisen and when the Act is put in force it is likely to be put in force against wrong-doers, but it sometimes so happens that it may also be put in force against innocent persons, and it is for the purpose of protecting the innocent from oppression, that the advisory committee is suggested in this amendment. I therefore appeal to the House to accept the amendment and to give it its support."

Rao Bahadur K. GOPALAKRISHNAYYA :—"With your permission, Sir, I wish to ask whether it would not be more convenient to put my amendment to the vote before Mr. Ramalinga Reddi's amendment is taken into consideration, because I find that it is an improvement upon the amendment that has now been moved and seconded. I think it will be more convenient to the House to consider my amendment before discussing further Mr. Ramalinga Reddi's amendment."

The hon. the PRESIDENT :—"I wonder to whom it will be more convenient."

Rao Bahadur K. GOPALAKRISHNAYYA :—"To the House, Sir."

The hon. the PRESIDENT :—"It may or may not be more convenient to the House, but it is certainly out of order. I really cannot stop an amendment which has been moved and is under discussion, to take up another amendment. But if the hon. Member Mr. Ramalinga Reddi is convinced by Mr. Gopalakrishnayya's arguments, and thinks that it would be well for him to withdraw his own amendment and make room for Mr. Gopalakrishnayya's amendment, that would be a different matter. But I cannot on my own motion choke off an amendment which is before the House, because it may be more convenient to take up some other amendment which comes later on the agenda."

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Clause 3—*cont.*

Rao Bahadur K. GOPALAKRISHNAYYA :—"Then, Sir, with your permission, I move for adjournment of the consideration of Mr. Ramalinga Reddi's amendment."

The hon. the PRESIDENT :—"Under what standing order?"

Rao Bahadur K. GOPALAKRISHNAYYA :—"Under Standing Order 34, Sir. Sir, may I bring to your notice that you were pleased to adjourn the consideration of my own amendment the other day when we were considering the Court Fees Bill?"

The hon. Sir CHARLES TODHUNTER :—"May I point out, you have not
12-15 p.m. admitted the amendment of Mr. K. Gopalakrishnayya, and may I further ask that the question of the admission of the amendment should not be prejudiced by a discussion of, or a reference to it in a discussion of the previous amendment?"

Rao Bahadur K. GOPALAKRISHNAYYA :—"With regard to that, Sir, I should like the other amendment to be adjourned under Standing Order 34."

The hon. the PRESIDENT :—"Does the hon. Member Mr. Ramalinga Reddi feel that it would be more convenient to withdraw his amendment and allow the other amendment to go forward?"

Mr. C. RAMALINGA REDDI :—"Do I understand you, Sir, to suggest that I should ask the permission of the House to withdraw my motion in favour of the one, my friend Mr. Gopalakrishnayya will presently move?"

The hon. the PRESIDENT :—"There is no such thing as withdrawing an amendment in favour of another. It is for the hon. Member Mr. Reddi to consider whether he should withdraw his amendment, in case, he is persuaded by the arguments of the hon. Member Mr. Gopalakrishnayya to do so."

Mr. C. RAMALINGA REDDI :—"Sir, I request permission of the House to withdraw the amendment that I moved."

The motion was by leave withdrawn.

The hon. the PRESIDENT :—"I must now ask whether any hon. Member objects to the amendment of the hon. Member Mr. Gopalakrishnayya going forward on the ground that notice of it was given only half an hour ago?"

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I object and strongly object to this, Sir. When I objected to the hon. Member Mr. C. Ramalinga Reddi's amendment, of course, you were good enough to point out, Sir, that inasmuch as the amendment that he was then moving had been incidentally referred to by Mr. C. Ramalinga Reddi in his speech and some other hon. Members too had probably referred to it though not directly, the consideration of that question might in some way or other be prejudiced by that discussion and therefore that amendment had better go forward. But now, I do not wish to comment on the phraseology of this amendment, although there are various objections. But I do contend that it was put into our hands just this minute and it will be hard on us to face amendments of this description which again open the same questions which have been previously considered for hours and a final settlement of the whole question has already been reached. I strongly object to this amendment going forward."

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Clause 3—*cont.*

The hon. the PRESIDENT :—"I understand the hon. the Revenue Member to say that this amendment practically raises questions which have already been discussed. Then of course nobody could object for want of notice. I had better allow the amendment to go forward. The hon. Member Mr. Gopalakrishnayya will now move it."

Rao Bahadur K. GOPALAKRISHNAYYA :—"I thank you, Sir for this great relief, in passing through this ordeal. I move, Sir, that in clause 3 the following proviso may be added :

' Provided that, if in the opinion of the Collector, such refusal, neglect or resignation is in consequence of a strike of work with a view to embarrass the Government, he shall previously obtain the written consent of a non-official advisory committee specially to be appointed by the Local Government in this behalf, consisting of the inhabitants of the district concerned including the elected members of the Legislative Council of such district.'

"The principle involved in the amendment has already been explained by my hon. friends Mr. C. Ramalinga Reddi and Mr. O. Tanikachala Chettiyar. I do not think I need add anything more to what they have stated. The only question, Sir, is that there is a strong opinion that in matters involving radical changes the opinion of a non-official committee should be obtained by the Collectors. It may be said in support of the Collectors by the hon. the Revenue Member that they are above any wrong and that they are infallible. And still we feel that this matter is of a very serious consequence and that it is necessary that an advisory body should also assist the Collectors in exercising their powers which are now sought to be vested in them ; and as such it is not enough if a real advisory committee is to be appointed by the Government consisting of members who may not know anything of the locality in which this Act may be put in force. It is necessary therefore to have gentlemen from the district itself if not from the very area. The sub-committee will also consist of member of this Council elected by the district. I suppose such a committee consisting of the elected members from the district and also certain others who may be appointed by the Government and who are inhabitants of the district will be in a better position to judge things properly and it will be in a better position to give to the Collectors proper advice. And as such, Sir, I move that this proviso be added.

"As it is, Sir, by accepting the amendment as amended by the Law Member's amendment, some words here seem to be redundant, i.e., 'If in the opinion of the Collector, such refusal, neglect or resignation is in consequence of a strike of work with a view to embarrass the Government'. If so, Sir, I have no objection to remove such portions."

The hon. Sir CHARLES TODHUNTER :—"I ask, Sir, if it is in order for the hon. Member to remove the amendment which has been passed by this House. He is proposing to do that, Sir. I submit his amendment is totally inconsistent with the section as passed by the House."

The hon. the PRESIDENT :—"I understand the hon. Member to say, in case somebody raises any objection to any particular portion of the amendment, he has no objection to withdraw that portion. What the hon. Member is saying to do is to anticipate difficulties."

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Clause 3—*cont.*

Rao Bahadur K. GOPALAKRISHNAYYA :—"Sir, I wanted to meet my enemies' case by anticipating possible objections and explaining them beforehand."

The hon. the PRESIDENT :—"Do I understand that the hon. Member intends to forego his right of reply?"

Rao Bahadur K. GOPALAKRISHNAYYA :—"Then, Sir, I beg to move the amendment which I have just read out to the Council."

Rao Bahadur V. APPASWAMI VANDAYAR :—"I second it."

Diwan Bahadur M. KRISHNAN NAYAR :—"I rise to oppose the amendment. Many objections can be taken to this amendment. In fact my friend, the mover of this resolution, will permit me to say that this amendment cannot be accepted by the House for very many reasons. It is probably unnecessary for me to go into the details of all these reasons. I shall just point out only one or two reasons for showing why this amendment should not be and cannot be accepted.

"My friend, the hon. the Finance Member, a few minutes ago, stated that this amendment is inconsistent with the amendment that has already been passed. I shall not go into that. I shall refer only to two objections: first, with reference to the constitution of the committee proposed by my friend, and secondly with reference to the fact that any committee, however unobjectionable it may be, will, instead of making the working of the Act easy, only embarrass the Collector and make the Act absolutely nugatory.

"Now I shall first confine myself to the constitution of the committee as recommended by my hon. Friend. The committee to be appointed as proposed by him is to be a non-official advisory committee. Of course the Government is to appoint this committee. Who are the members of this committee? It should consist of the inhabitants of the district concerned. Let us suppose that the Government by a notification extends the operation of this Act to the Guntur district, and my friend wants the Collector to be assisted by a committee consisting of the inhabitants of the Guntur district, that is, the district concerned, including the elected members of the Legislative Council; so that, all the inhabitants of the district ought to constitute a committee to assist the Collector. I do not think any arguments are necessary for showing the absolute impossibility of accepting this amendment, as the constitution of such a committee is absolutely impossible. That is one reason why I object to the carrying out of this amendment.

"Secondly, I may go to a more substantial and solid ground why any committee should not be appointed. In fact it was my intention, if my hon. Friend Mr. Ramalinga Reddi had not withdrawn his amendment, to have requested him to do so. That necessity did not arise because he withdrew the amendment. If a committee is to be appointed under this amendment, the Collector will have to 'previously obtain the written consent' of this advisory committee before dismissing or removing a particular village officer who, in his opinion, is objectionable. If he has to obtain the consent, whether written or otherwise, of a non-official committee, it will considerably embarrass the Collector, and he will find it, I do not say impossible, but extremely difficult to carry out the provisions of this Act. That will hamper the executive administration and practically in many cases nullify the

[Mr. M. Krishnan Nayar]

[16th March 1922]

Clause 3—*cont.*

provisions of this Act. As I submitted, Sir, it is unnecessary to go into the other reasons against the amendment. Having regard to these observations, I hope my hon. Friend Mr. Gopalakrishnayya will see the need and desirability of withdrawing this amendment."

Mr. S. T. SHANMUKHAM PILLAI :—" I strongly oppose the amendment. As I said yesterday, if this is passed, it will reduce the administration of the district to a deadlock, and will hamper the Collector. This measure is intended to help the Collector when occasions of emergency arise in the administration. This amendment, on the other hand, will make it impossible for the Collector to deal with the situation promptly. The wording of the amendment is : ' if, in the opinion of the Collector, such refusal, neglect or resignation is in consequence of a strike of work with a view to embarrass the Government, he shall previously obtain the written consent of a non-official advisory committee.' Who are to constitute the committee? That means long delay, and in the meantime a lot of trouble will arise. If you pass this amendment it is tantamount to saying that this Bill is useless. I think that if this amendment is passed the object of the Bill will be frustrated. The Bill may better be thrown out."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I will merely read once more for the information of the House as to how, if this addition is made to clause 3, the whole clause will read : ' Notwithstanding anything contained in section 16, clause 2, of the Madras Proprietary Estates Village Service Act II of 1895, and section 7 of the Hereditary Village Offices Act III of 1895, the District Collector may——"

Rao Bahadur K. GOPALAKRISHNAYYA :—" Without giving any further trouble to the hon. the Revenue Member, I think I shall be well advised to seek for leave to withdraw this amendment."

The amendment was then by leave withdrawn.

Clause 3 as amended was then put, passed and added to the Bill.

CLAUSE 4.

Amendment 14-A.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I beg to propose—
' 14-A. Omit the words " The District Collector shall " at the beginning of the clause and reinsert the same words after " removal " . '

" It is merely a transposition of words. The clause as it stands reads : ' The District Collector shall before making an order of dismissal or removal . . . ' etc. It will read now : ' Before making an order or dismissal or removal the District Collector shall ' . The change is merely formal."

Mr. S. MUTTUMANICKA ACHARI :—" I second it."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I do not see the need in any case for the amendment. I think the clause as it stands reads well enough."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I withdraw the amendment."

The amendment was by leave withdrawn.

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Clause 4—*cont.*

Amendment 14-B.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I beg to move :—
' 14-B. Put a comma after the word " removal " in line 2 ' "

Sriman SASI BHUSHANA RATH Mahasayo :—" I second it. "

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—
" I have no objection to the comma being added. "

The hon. Sir CHARLES TODHUNTER :—" I think the whole phrase should be within commas, that is there should be a comma before the word ' before ' or there should be no comma at all after ' removal ' . "

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" This amendment was on the assumption that the previous one would be accepted. I withdraw the amendment. "

The amendment was by leave withdrawn.

Amendment 14-C.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I beg to move—

' 14-C. Substitute the words " the Madras Proprietary Estates ' Village-Service Act, " for the words " Act II of " in line 8. "

Diwan Bahadur R. VENKATARATNAM NAYUDU :—" I second it. "

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—
" I accept it. "

The amendment was put and carried.

Amendment 14-D.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I beg to propose—

' 14-D. Substitute the words " The Madras Hereditary Village Offices Act, " for the words " Act III of " in line 9. "

Diwan Bahadur R. VENKATARATNAM NAYUDU :—" I second it. "

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—
" I accept it also. "

The amendment was put and carried.

Amendments 15 and 16.

The following amendments were not moved :—

Rao Bahadur A. S. KRISHNA RAO PANTULU :—

15. For ' one month ' at the end of the clause substitute ' two months '.

Mr. P. SIVA RAO :—

16. Add the following at the end of the clause :—

" The orders of the Board of Revenue in appeal shall be final. "

Amendment 17.

Mr. A. RANGANATHA MUDALIYAR :—" I beg to move—

' 17. Omit the second sentence beginning with " Notwithstanding " and ending with " one month. "

[Mr. A. Ranganatha Mudaliyar]

[16th March 1922]

Clause 4—cont.

"The effect of this sentence in the clause is that the appeal to the Board of Revenue should be preferred within one month, whereas under the existing provisions the period is three months. Turning to section 16 of Act II of 1894, we find it stated, 'Against every order passed by the District Collector or Revenue Officer aforesaid under sub-section (2) an appeal shall lie to the Board of Revenue within three months.' Again in section 23 (1) of Act III of 1895 it is stated, 'an appeal shall lie within three months to the Board of Revenue.' Now, it is proposed to restrict that period to one month. The matter we are dealing with is very important both for the Government and for the officers concerned. We are giving the executive officers immense powers to deal drastically with such of their subordinates as give cause for action. I think it is but natural in cases like that, that the restrictions regarding the appeal against such decisions should not be more than what are absolutely necessary. I do not think the Government will stand to lose anything by retaining the old period of appeal, namely, three months."

Sriman SASI BHUSHANA RATH Mahasaya :—"I second it."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I am sorry I have to object to this amendment. I believe we have by now realised that this and the other measure which we passed the other day are emergency measures. As such they should contain provisions to expedite and hasten action. We have since agreed to a certain definite provision being introduced in clause 3 which and which alone shall be a justification for the dismissal of the village official erring against it."

"I do not think it will be the intention of the House that on such emergent occasions also the usual leisurely and tardy procedure that is contemplated in the existing Act and which would apply to the normal conditions should also be made to apply in a case where action on the spot and a more prompt action is essential. It will be hard, I think, if a village official who has been dismissed under clause 3 is given the right of appeal which should extend to a period of three months. It will be hard, Sir, for the Collector who has taken action under it, to await the decision of the appellate authority for a long period of three months before he can decide as to what he should do in regard to the filling up of the vacancy. As I have always said, Sir, in measures of this description it is necessary to remember the fact that the means should always be somewhat different from those which are intended for operation in ordinary times and which have application to ordinary events. In a case like this, therefore, where we are going to arm the Collector with certain special powers over and above those which exist under the present law and where we have also a definite indication of the cases in which alone he should exercise that special power, I think it is necessary that we should deviate from the lengthy procedure that is allowed under the existing Act by which the individual aggrieved by the order of the Collector should prefer an appeal. I do not at all see, Sir, that there can be anything like a real grievance which the hon. Mover of this amendment is trying to rectify. For, it is obvious that in a matter like this when a Collector decides to take action under clause 3 he, before taking that action, will allow sufficient time to the individual concerned to show cause why he should not be dismissed. A certain period thus necessarily intervenes between issue of the notice by the Collector and the final disposal by him in regard to that

12-45 p.m.

16th March 1922] [Mr. Muhammad Habib-ul-lah Sahib]

Clause 4—*cont.*

particular case. Thereafter an order is passed; a month's time is allowed to the aggrieved individual to appeal to the Board of Revenue and I can hardly see what grievance there is which the hon. Mover wished to rectify. I should therefore prefer to retain the one month as it is and I beg the House not to interfere with it which I regard as sufficiently long."

Mr. A. RANGANATHA MUDALIYAR :—"Sir, because the Government want certain powers to meet an emergency, the Council is going to give them the power to do away, under certain circumstances, with the hereditary tenure which has been long enjoyed by the village officials. My hon. Friend, Mr. Subba Rao, has described how very often village officers are coerced into resigning their appointments. I ask whether it is right on the part of the Government to deny them sufficient opportunity to reconsider their position and to range themselves on the side of law and order. By denying sufficient time to reconsider their position, we will be simply forcing them to stick to their original attitude, and unconsciously strengthening the movement which is directed against the Government. Further, the hon. the Revenue Member can tell us from his experience that these village officers who have so far preferred appeals to the Board of Revenue did so within the period of one month? We are dealing with village officers who are not intelligent lawyers to decide complicated questions straightaway. They have to consider whether or not, they should prefer an appeal. They need help and guidance in coming to a decision. All this will take time. It is because of that that I urge that they should have the three months provided in the original Act for purposes of appeal."

The amendment was then put and lost.

Clause 4 of the Bill as amended was then put, passed and added to the Bill.

CLAUSE 5.

Amendment 18.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I beg to move, Sir, the amendment standing in my name which reads thus:

'Put a comma after the word "shall" in line 2'."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I second it."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I accept it, Sir."

The amendment was put and carried.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I beg to move, Sir—

'Put a comma after the word "directs" in line 3'."

Mr. S. MUTTUMANICKA ACHARI :—"I second it."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I accept it."

The amendment was put and carried.

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—"Sir, I beg to move—

'In line 3 of the clause after "cease" add the words "so far as the undivided members of the family to which the officer dismissed or removed belongs."

[Mr. T. A. Ramalinga Chettiyar]

[16th March 1922]

Clause 5—*cont.*

„ This proposal is made not to take away the effect of the Act, but it is only intended to safeguard against the using of the powers vested in the Collector in the way referred to by my hon. Friend Rao Bahadur Gopalakrishnayya. Well, Sir, there is meaning in saying that a person who stands in the way of the discharge of duties for which he is appointed should be dismissed and there is also meaning in saying that those persons who live with him or who are under his control or influence are not to take his place. I cannot see what justification there is for altogether damning a family and everybody else with whom the village officer may claim any sort of relationship by blood or otherwise. It looks as if by passing this legislation we want to hold a sort of terror against the whole class or community to which the man disobeying the law belongs. It looks as if we want to take security from the whole community that this man will behave properly, because we are saying by this legislation that if one man of any community misbehaves we will hold the whole community responsible. Such a sort of legislation ought to be avoided even in times of emergency like this. As I said, we are prepared to help the Government in matters of necessity and are prepared to admit that the people who are likely to be influenced by the dismissed man, viz., those who live with him, are likely to give trouble to the Government and therefore deserve to be penalised. But to go further is unreasonable and uncalled for. I am sure, Sir, it is not the view of the Government that they should hold out this sort of terror against the whole community to which the man belongs, and I am also sure, Sir, that it is not the intention of the Government that they should give a sort of *carte blanche* to the revenue officers and allow them to exercise their powers in the way described by my hon. Friend Mr. Gopalakrishnayya. If the section is passed as it stands I fear even though we are living in civilized government that some officials might utilize their powers in the way referred to. I know, Sir, of at least one instance in which a Collector thought that a person who disobeyed his Revenue Divisional officer in some other capacity as a municipal councillor, was unfit to continue as a village officer. If a law like this is passed, he may be dismissed for such causes as this and not only he but also the whole family and community may be deprived of the office to which some importance is attached even at the present moment in spite of the non-co-operation movement. So, Sir, I beg to submit that this amendment ought to be accepted, otherwise difficulties may arise.”

Mr. B. MUNISWAMI NAYUDU :—“ I beg to second the amendment. Sir, it looks to me that the Government have too much counted upon the help of the divided cousins of the remotest degree to bring about a change of character in the village officer who resigns. It seems to me, Sir, on the other hand, that providing for the claims of divided members would induce the person now doing the duties of the village official not to take the extreme step of getting himself dismissed. And if this amendment is not passed, the person who takes himself to non-co-operation and brings himself within the provisions of this law will be glad because not only he and his joint family but also the divided members of the family will suffer. I think, Sir, if the divided cousin has a chance of coming in, it will act as a sort of deterrent and make him think that he will rather not resign the post for the effect of it would be that the divided cousin would get it. Taking that into consideration, it is necessary that such a forfeiture should be confined only to the

16th March 1922] [Mr. B. Muniswami Nayudu]

Clause 5—*cont.*

descendants. To make only the undivided members of the family suffer and not the divided will serve more to keep the man at the post rather than give it up and thus make it possible for the divided member to come in. While we sympathise with the Government in taking every step to put down the disorderly movement and preserve order we only suggest that by accepting this amendment they would make it less possible for persons to resign and thus further their object. For these reasons, I second the amendment."

Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, I think this amendment is on very sound lines. I do not wish to take up the time of the Council by speaking at length on the amendment now under discussion. Of course, a person who is guilty of embarrassing the Government and who thwarts it in all possible ways should be punished. And that in fact is the object of the Bill. The Council has unanimously given its consent to this principle. Going a step further, probably it is also necessary to punish the other undivided members of the same family and to that extent also the Council is prepared to go. It is quite possible that in an undivided family there may be members who do not share the views of the particular village officer who embarrasses the Government. There may be some members in the undivided family who are thoroughly against the action of the officer and who are nevertheless unable to influence him. In such instances it will be rather hard to punish all the members of the family for the sins of the particular individual; but even to that the Council has no objection. But to go beyond that and to punish the members of the divided family by depriving them also of the hereditary right which the family as a whole enjoys, is going too far and there will be no need for inflicting this hardship upon persons who are not in any way connected with the particular offender in the offence."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—

1 p.m.

" I am sorry, Sir, that I cannot at all see the reason for the alarm which seems to prevail in the minds of those hon. Members who have spoken as regards the consequences of clause 5. Let me at once state that the Government have not had the slightest intention of making these orders applicable in the case of individuals, whether they are members of a divided family, or whether they are members of an undivided family, regardless of the merits of each case. The aim and purpose of clause 5 is merely to deal with such individuals, whether they are actually in office, or whether they are members of the family of individuals who are in office and who by their words, deeds and actions have rendered themselves open to the charge of aiding or abetting any political movement with the object which we have definitely specified in clause 3; and to that extent I expect hon. Members of the House will agree. So that any order of dismissal issued against an individual may not have an indefinite operation, that it may not also cover cases of other individuals of that particular family who may be free from that taint and whose co-operation in the village administration might be desirable and whose participation in the conduct of the village affairs might be considered very essential, we have made suitable provision in clause 5 itself. For, there we have definitely stated, Sir, that ' on such dismissal or removal ' the hereditary right to the office shall, unless the Collector otherwise directs,

[Mr. Muhammad Habib-ul-lah Sahib]

[16th March 1922]

Clause 5—*cont.*

'ease'. It was with the intention, and the deliberate intention may I add, of making it still possible for members of the family of a dismissed individual, whether they happened to be divided members or undivided members, to be given the opportunity of continuing to enjoy the hereditary right which that family possessed that we have made it possible for the Collector to continue it in the same family, whether those individuals are divided or undivided; whereas the amendment that is now suggested would probably land us in certain difficulties. Hon. Members of the House who are lawyers will know that it would be very difficult to decide or draw the line of demarcation between what one would call a divided member and an undivided member of a family. I suppose those who know Hindu Law are aware that there are innumerable degrees in the ascendancy as well as in the descendancy for the purpose of determining who is a co-parcener of a family and up to what extent the co-parcenary right would extend. There are certain degrees up to which the right of co-parcenership will extend. All these complicated and meticulous details of Hindu Law will then have to be decided by the Collector before he could come to the conclusion whether A, a member of a particular family who comes and asks for the office from which he has dismissed a particular individual, is an undivided member of that family or not. Hon. Members are also aware probably of the recent decision of the Privy Council in which it has been definitely held that all that is needed for the purpose of securing a division is an expression of an intention to do so. A mere declaration on a piece of paper that A, a member of a particular family has divided himself from B, would be enough of an authority for the purpose of showing that he is a divided member. And, Sir, for aught we know, he might probably be a worse enemy of the Government than the individual whom the Collector has dismissed. But, under this amendment, he cannot decline to take on that man as a village official. What he will have to do will be to take him on, dismiss him again under clause 3, give him an opportunity to appeal and then declare under clause 5 that the undivided members of his family will again lose the right. So that this process will have to go on by rotation from day's end to day's end which I do not think it is the intention of the House to create. We have, therefore, Sir, inserted sufficient safeguards in this clause, because we were aware of the fact that a particular individual might be guilty for various reasons. It does not necessarily follow that all the members of that particular family will share his views or that all the members of that family are enemies of the Government. It is perfectly possible that an undivided brother of the dismissed man might be an esteemed man in the village and the Collector might like to take him on and appoint him in the place of his dismissed brother. Under the proposed amendment he cannot do so by the fact that his undivided brother was dismissed from the office, but under the power which we have conferred upon him, he is at liberty to do so. This amendment will merely create a state of confusion from which it will be very difficult to get out. Again it will lead to a large amount of civil litigation for the purpose of contesting the validity of the orders of the Collector as to whether he correctly dismissed a man, whether a particular individual was a member of a divided Hindu family or a member of an undivided Hindu family. That, I hope, is not the intention of the House."

16th March 1922]

Clause 5—cont.

Mr. P. SIVA RAO :—“ Sir, I rise to support this amendment. I have given notice of a similar amendment which is also tabled for consideration. Sir, to start with I may say I am strongly opposed to all kinds of what are known as vicarious punishments. I strongly support the principle that a man who is really guilty should alone suffer for his misconduct. Now, Sir, what the Bill contemplates is to deprive the hereditary right which is vested in the other members of the family. By reason of a misconduct of one individual who is the holder of the office for the time being, what the present Bill proposes to do is to deprive all the members of his family, however remote, whether divided or undivided, whether they are sons or brothers or distant cousins, of their mirasi right. Sir, I have stated as my foremost reason that I am opposed to all vicarious punishments of this kind. Under the present Act if an office holder is convicted of treason, or of other criminal offence, of whatever serious import he is liable to forfeit his appointment. An office-holder may be guilty of sedition under section 124 (a) or of waging war against the Government. Under the Indian Penal Code he may be convicted and sentenced to transportation for life, but there is absolutely no provision either in the Indian Penal Code, or anywhere in the Madras Hereditary Village Offices Act which would justify the depriving of all the members of his family of their hereditary right to that office. Sir, this is a right vested in the other members of the family. Why should other persons who after all are innocent be made to suffer for the sins of others? That is a very simple question and I am very much surprised that it has not appealed to the hon. Member in charge. There is also another principle involved in this. When in the case of an office-holder who is convicted of treason or of waging war against the King, there is no provision for depriving his family of their hereditary right to his office, why should it be attempted to taint the blood of the man in this particular case especially when there is no judicial conviction and merely because after all the Collector thinks that he has joined the non-co-operation movement, or has resigned or neglected his duties under political influences. These are very strong reasons which appeal to me most.

“ Then the hon. Member in charge said that there would be innumerable difficulties if we were to vote for this. He stated that the question of division or non-division is one of the most complicated matters which come before the civil courts and which rack the brains of the judges and it is not just and proper that these civil courts should any longer be burdened with the troublesome task of these decisions as to division or non-division; and the hon. Member in charge was pleased to quote the recent decision of the Privy Council that an equivocal expression of opinion on the part of any particular member of the family is enough to create division. Shall I quote for the consideration of the hon. Member in charge a specific provision in the present Act itself introducing this reservation against undivided members? For instance, section 10 says: that in case of a resignation, or of a temporary vacancy, or if a man is dismissed, if it is proposed to fill up that vacancy during the lifetime of the man who is dismissed, or who has resigned, or who is suspended, anybody may be appointed except an undivided member. So that: *undivided* member of the family is not an invention by any one of us. It is an old provision contained in the present Act. The reason in favour of excluding undivided members of the family is

[Mr. P. Siva Rao]

[16th March 1922]

Clause 5—cont.

obviously this, that they are living together under the same roof. Under the circumstances he is supposed to be amenable to the influences of the man who was dismissed and that it is not desirable to appoint the latter in that post. What is the object of the present Bill? If it is intended to be punitive this is adequate punishment, and the principle is that the man who really was guilty ought to bear the consequences. If it is intended to be retaliatory, or if it is intended to strike terror into the hearts of the non-co-operators, can the Government serve their object better than by providing that those who are nearer and dearer in blood to that unfortunate man, his sons, his brothers, his grandsons and his progeny shall not enjoy the mirasi right? Considered in any view, Sir, there is no reason for the drastic provision of the kind. We heartily support the Government in so far as they are trying to legislate for certain repressive measures or drastic measures. But there is a limit to everything, Sir, and I do not think we will be justified in exceeding that limit by tainting the blood of this unfortunate man. The remedy which is proposed is a very good remedy.

"Then, Sir, it was stated that it will give rise to increase in civil litigation. I am not apprehensive of any such consequence. Under the present Act also there is a provision to which I have already alluded, which says that an undivided brother might be excluded in case of dismissal. I do not think after all that these matters will ever be carried to civil courts. Under section 21 and by operation of other sections of the Hereditary Village Offices Act, the revenue authorities are the sole arbiters of matters arising under the Act in relation to these village officers.

"Now, Sir, I give my most unstinted support to the amendment that is now proposed which will satisfy the object of the Government and also have the effect of not unnecessarily interfering with the rights of others. Turning to the Select Committee report it is stated—

1-15 p.m. "For our present purposes it is desirable that the Act should be as simple as possible and that as large number of persons as possible should be interested in seeing that the holder of the office is loyal to his duty."

"In other words the attempt of the Government is to make all those unfortunate persons who happen to be the relations of these men to give security for the good behaviour of the office-holder for the time being. It is an impossible state of things. It is impossible for a man who has no control over the doings of another individual to give security or be responsible for his actions. For these reasons I strongly support the motion."

Rao Bahadur K. GOPALAKRISHNAYYA :—"I rise to support this amendment. It looks as though the Government are provoking a spirit of non-co-operation among the families of the village officers. It may be, Sir, that in some cases the village officers have joined a movement directed against the authority of the Government; but it should be the aim of this Government to bring back such persons to the fold of people who are in support of the policy of the Government. As the present law stands, no doubt, Sir, that certain discretion is left to the Collector who might direct the appointment of a member of a divided or an undivided family of the dismissed officer. On the same ground, Sir, as was pointed out by me on a previous occasion this discretion may be abused and in such cases some

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[Mr. K. Gopalakrishnayya]

Clause 5—*cont.*

protection would be necessary on behalf of these dismissed village officers. It is said in the Select Committee's report that this provision is retained in order to have as large a number of persons as possible to be interested in seeing that the holder of the office is loyal to the Government. I do not think, Sir, how far this object will be achieved if this provision is retained. Of course many of these village officers are retaining their offices because the two Acts have given them right of inheritance. There are several divided members of the village officer's families who are at logger heads with one another and who are not at all interested in the man who is holding the office. It is not just, Sir, to deprive the whole lot of the people who inherit these offices by virtue of the operation of this Act. We have heard, Sir, that the sins of the fathers might be visited on the sons. But we have never heard that the sins are visited on the divided brothers or their descendants and their descendants. It is not right, Sir, that though we have to support the Government in an emergency we should go to the length of depriving the right which might be vested in at least the divided members of the family. It would be to the interests of the Government that this right should be at least within the family though divided so that the divided members may be interested in keeping the man in a state to assist the Government and not to embarrass the Government. You know, Sir, that in India these village officers are clinging to their offices by virtue of the prestige attached to those offices but not of the pittance paid by the Government. I am sure, Sir, there is no parallel on the face of the globe where the servants of the Government work for mere pittance. There is that charm, Sir, in holding that office as a hereditary office. It is that charm that keeps them on to hold the office though they do not get a proper return for their services. It is that, Sir, that we have to bear in mind. The Select Committee says that it is afraid of some suits. I do not know how suits will arise. Suits will not arise in these cases because it is only the Board of Revenue that can interfere. It may be in some cases that they drag the matter to the civil courts. Such things occur in other cases also where discretion is maliciously abused. Again, Sir, it looks as though the Government wants to strike at the very bottom of the whole system. We may as well say that the rights of inheritance may be set at naught and that the hereditary nature of the office may as well be removed. That is the question which will have to be considered very deeply by the Government. The hon. the Revenue Member is pleased to remark that still there is the provision in clause 5 to safeguard the interests of the well-behaved people. Clause 5 says: On such dismissal or removal the hereditary right to the office shall unless the Collector otherwise directs cease As a rule the man will be dismissed and his successors will have the right of inheritance as an exception. The Collector may say that this man shall not have the ordinary right. For all these reasons I support the amendment very heartily."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—
"One or two words more I would like to say, Sir. My hon. friend Mr. Siva Rao drew the attention of the House to the existing provisions contained in section 10 (4) of the Hereditary Village Offices Act and wanted to use that as an argument for the continuance of the right of undivided members of the

[Mr. Muhammad Habib-ul-lah Sahib] [16th March 1922]

Clause 5—*cont.*

family on the ground that it exists in that section. But may I invite the attention of the hon. Member to the fact that the Act from which he is quoting is certainly centuries older than the recent pronouncement of the Privy Council. Therefore the fact that certain words find a place in a statute before the pronouncement of a judicial tribunal as regards their interpretation loses considerable force. Then again we have found as a matter of experience that even at present that provision is easily evaded even by individuals who to the knowledge of the revenue officials still continue to be members of an undivided family, by merely making a show of an arrangement between themselves to avoid the penalties arising from the existing provision and by making it appear that they are divided members, and that therefore they are entitled to the office. Aware as we are of the various subterfuges which are in operation at the present moment and as we wished as far as possible to avoid repetition of such subterfuges in regard to a measure which will after all be of temporary nature and which is to meet an emergency, we considered that our experience in the matter should be taken advantage of. As I said, already, Sir, even in this Bill members of an undivided family are not definitely deprived of the right of securing the office. Then it was suggested that the Bill was intended to strike terror into the minds of all the members of a family be they divided or undivided. Not at all, Sir. Our object has been very noble. We intended that by the existence of a provision of this description we will be forcing as it were, the members of a family, of which the misguided or erring individual has definitely joined a particular movement, if they know that the sacred right of heredity which has been in that family for centuries is going to be lost on account of the action of a particular individual, to combine together and bring their joint and whole-hearted influence on that individual and wean him away from that movement so that neither he nor any member of the family may lose that right. It was with that intention that we introduced the Bill not that we wanted to strike terror, not that we wanted to deprive any individual member, much less to deprive all members of the family indiscriminately of their right of heredity. Of course, I would again beg to draw the attention of the House that the amendment as drafted, probably hastily drafted, lacks what a school boy would call 'Grammar'. The words are: 'On such dismissal or removal the hereditary right to the office shall unless the Collector otherwise directs cease so far as the undivided members of the family to which the officer dismissed or removed belongs'. Probably the hon. Member meant 'So far as concerns' or something like that. I shall not raise any dispute over that. But on the main ground I have to oppose the motion and would add, Sir, that there is no need whatsoever for its incorporation.'

1-30 p.m.

A poll was taken with the following result:—

Ayes.

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| 1. Mr. K. Adinarayana Reddi. | 8. Mr. B. Muniswami Nayudu. |
| 2. Dr. M. Appalarasayya Nayudu. | 9. Mr. A. T. Muttukumaraswami Chettiyar. |
| 3. Rao Bahadur V. Appaswami Vandyar. | 10. Mr. V. Pakkiriswami Pillai. |
| 4. Rao Bahadur K. Gopalakrishnayya. | 11. Mr. P. T. Rajan. |
| 5. Rao Bahadur T. A. Ramalinga Chettiyar. | 12. Rao Bahadur A. Ramayya Punja. |
| 6. Mr. C. Ramalinga Reddi. | 13. Mr. W. P. A. Saundara Pandia Nadar. |
| 7. Mr. J. Kuppaswami. | 14. Mr. K. Sitarama Reddiyar. |
| | 15. Mr. T. Somasundara Mudaliyar. |

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Clause 5—cont.

Ayes—cont.

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| 16. Mr. N. A. V. Somasundaram Pillai. | 23. Mr. P. Siva Rao. |
| 17. Dr. P. Subbarayan. | 24. Mr. C. V. Venkataramana Ayyangar. |
| 18. Mr. T. C. Tangavelu Pillai. | 25. Mr. S. Muttumanicka Achari. |
| 19. Mr. V. C. Vellingiri Goundar. | 26. Rao Bahadur C. V. S. Narasimha Raju. |
| 20. Mr. P. Venkatasubba Rao. | 27. Sriman Sasi Bhushana Rath Mahasayo. |
| 21. Diwan Bahadur M. Ramachandra Rao Pantulu. | 28. Mr. M. R. Seturatnam Ayyar. |
| 22. Diwan Bahadur M. Krishnan Nayar. | 29. Mr. M. Suryanarayana. |
| | 30. Mr. Ahmad Miran Sahib Bahadur. |

Noes.

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| 1. The hon. Sir Lionel Davidson. | 12. Mr. R. Littlebailles. |
| 2. " Sir Charles Todhunter. | 13. Mr. E. Periyannayagam. |
| 3. " Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur. | 14. Mr. R. K. Shanmukham Chettiyar. |
| 4. " Mr. P. Ramarayanangar. | 15. Mr. A. Ramaswami Mudaliyar. |
| 5. " Rai Bahadur K. Venkata Reddi Nayudu | 16. Mr. R. Appaswami Nayudu. |
| 6. " Rao Bahadur A. P. Patro. | 17. Mr. S. T. Shanmukham Pillai. |
| 7. Mr. T. E. Moir. | 18. Mr. S. Somasundaram Pillai. |
| 8. Mr. M. E. Couchman. | 19. Mr. K. V. Ramachari. |
| 9. Mr. N. Macmichael. | 20. Rai Sahib E. C. M. Mascarenhas. |
| 10. Mr. F. J. Richards. | 21. Mr. M. C. Raja. |
| 11. Mr. C. W. F. Cotton. | 22. Mr. R. T. Kesavalu Pillai. |
| | 23. Rao Sahib P. Venkatarangayya. |
| | 24. Rao Bahadur T. Namberumal Chettiyar. |

The amendment was carried, 30 voting for and 24 against it.

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"I beg to move, Sir, that the words 'are concerned' be inserted after the word 'belongs'."

Mr. P. SIVA RAO:—"I second it."

The hon. Sir LIONEL DAVIDSON:—"I object to the form, Sir. If the object in view is to be secured, the proper way will be to insert the word 'concerns' after the words 'so far as' and not to create a series of consecutive verbs at the end of the sentence. The language should be elegant."

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"So far as English language is concerned, I accept the hon. Sir Lionel Davidson's statement and I beg leave to withdraw my motion."

The amendment was by leave withdrawn.

Diwan Bahadur R. VENKATARATNAM NAYUDU:—"I beg to move, Sir, that the word 'concerns' be inserted after the words 'so far as'."

Mr. S. MUTTUMANICKA ACHARI:—"I second it."

The motion was passed. The insertion was made.

Amendment 19.

The following amendment being identical with amendment 18 fell out.

Rao Bahadur A. S. KRISHNA RAO PANTULU:—

19. In line 3 of the clause insert the following words after the word 'cease' and before the words 'and sub-sections 2 and 3':—

'In the case of the dismissed person and the members of the joint undivided Hindu family at the time of the refusal, neglect or resignation and their descendants.'

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Clause 5—cont.

Amendment 19-A.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I move, Sir—

19-A. *Substitute the words 'the Madras Proprietary Estates' Village Service Act', for the words 'Act II of' in line 5.*

"This is merely a verbal amendment."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" I second it."

The motion was passed and the substitution made.

Amendment 19-B.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I move—

19-B. *Substitute the words 'the Madras Hereditary Village Offices Act' for the words 'Act III of' in line 7.*

"This is also a purely verbal amendment."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" I second it."

The motion was passed and the substitution made.

Amendments 20 and 21.

The following amendments, being identical with amendment 18 which was already disposed of, fell out :—

Mr. B. MUNISWAMI NAYUDU :—

20. *After the word 'office' in line 8 of the clause add the following :—*

'Only so far as the descendants of the dismissed person and members of the joint family at the time of the refusal, neglect or resignation.'

Mr. T. ARUMAINATHA PILLAI :—

21. *After the word 'office' in line 8 of the clause add the following :—*

'Only so far as the lineal descendants of the dismissed person and the members of the joint family at the time of the refusal, neglect or resignation.'

Amendment 21-A.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I move, Sir—

21-A. *Substitute the words 'no suit under section 13 of the Madras Hereditary Village Offices Act, 1895, shall be instituted in respect of the office' for the words 'no person shall have the right of suit under section 13 of Act III of 1895 or otherwise'.*

"This is merely to introduce the corresponding phraseology."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" I second it."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" My friend wants that the words 'or otherwise' also should go out. It is better if the words are retained. I have no objection to accept the amendment if the words are retained."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" May I know, Sir, what the force of the word 'otherwise' is?"

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" 'Otherwise' means 'under other circumstances'."

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Clause 5—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I don't wish to press my amendment, Sir."

The motion was by leave withdrawn.

Amendment 22.

In the absence of Mr. B. Muniswami Nayudu, Rao Bahadur T. A. Ramalinga Chettiyar with the permission of the House moved the following amendment :—

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—"I beg to move—

22. *Between the words 'no' and 'person' in line 8 of the clause insert the word 'such'.*

"It is consequential to my amendment which has been accepted. Otherwise the object of that amendment will be defeated."

Diwan Bahadur M. KRISHNAN NAYAR :—"I second it."

The motion was put and carried and the insertion was made.

Amendments 23 to 25.

The following amendment, being identical with amendment 18 which had been disposed of, fell through :—

Dr. P. SUBBARAYAN :—

23. *For the existing clause substitute the following :—*

'On such dismissal or removal the hereditary right of the office shall cease so far as the descendants of the dismissed persons and the members of the joint family at the time of the refusal, neglect or resignation, and their descendants are concerned and no such person shall have the right of suit under section 13 of the Act III of 1895.'

The following amendments were not moved :—

Rao Bahadur K. GOPALAKRISHNAYYA :—

24. *Delete the whole clause and re-number clause 6 as clause 5.*

Mr. P. SIVA RAO :—

25. *Delete the clause altogether*

or

Insert the following after 'removal' in the first line :—

'the undivided members of the family of the dismissed man and his and their direct heirs shall lose their hereditary right to such office,'

and omit the words beginning with 'the hereditary right' to the end of the clause.

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I will try to correct what is called a printer's devil. I move that in line 3 of clause 5 the word 'district' be inserted before the word 'collector'."

The hon. Mr. K. SRINIVASA AYYANGAR :—"I second it."

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Clause 5—cont.

Rao Bahadur C. V. S. NARASIMHA RAJU :—" Mr. President, Sir, I think the amendment proposed is not a proper one, because the word 'collector' in the interpretation of the clause should be understood to mean 'district collector.' My fear is that 'district collector' cannot mean a 'divisional collector.' Most of the cases are to be disposed of by the divisional collector."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I think, Sir, that the scheme of the Act places the whole power of dismissal in the hands of the district collector and not on the divisional officer."

The motion was carried and the insertion made.

The hon. Sir LIONEL DAVIDSON :—" Sir, I move that for the words 'Act III of 1895' in the last line of clause 5 be substituted the words 'the Madras Hereditary Village Offices Act, 1895'."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I second it."

The motion was carried and the substitution made.

The hon. Sir LIONEL DAVIDSON :—" I am sorry I have to move another amendment, Sir. I move that for the word 'the' in the ninth line of clause 5 be substituted the word 'any'."

The hon. Mr. K. SRINIVASA AYYANGAR :—" I second it."

The motion was carried and the substitution made.

Clause 5, as amended, was passed and added to the Bill.

CLAUSE 6.

Amendment 25-A.

1-45 p.m. Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I beg to move the following amendment :—

"25-A. Substitute the words 'the Madras Proprietary Estates Village Service Act,' for the words 'Act II of'."

Rao Bahadur C. V. S. Narasimha Raju seconded the amendment.

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I accept the amendment, Sir."

The amendment was put and carried.

Amendment 25-B.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I beg to move the following amendment :—

25-B. Insert the word 'shall' between 'office' and 'remain' in line 4."

Rao Bahadur C. V. S. Narasimha Raju seconded the amendment.

The hon. Sir LIONEL DAVIDSON :—" Sir, I think that, if we insert the word 'shall' as proposed, we shall also have to put in another 'shall' afterwards, that is to say, if we use the form 'the office shall remain,' we must also use the form 'the vacancy shall be filled up.' If, on the other hand, you employ the subjunctive form, then it must be used in both places."

The amendment 25-B was, by leave, withdrawn.

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Clause 6—*cont.*

Amendment 26.

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—" Sir, I beg to move the following amendment :—

'26. After "perscn" at the end of the clause add "and when he so orders the person next in succession outside the undivided family to which the officer removed or dismissed belonged possessing the requisite qualifications shall be appointed".'

"Sir, this amendment is also consequential on the amendment that has been accepted in clause 5. By this amendment, I only want the inclusion of the requisite qualifications and I do not think there is much to be said against this."

Mr. C. V. Venkataramana Ayyangar seconded the amendment.

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I must confess, Sir, that I cannot see any necessity for the addition of this clause. All that clause 6 now intends to provide is that 'the district collector may either direct that the office remain vacant or that the vacancy be filled up by the selection of a suitable person'. I assume the clause by itself is explanatory, for, I think, the clause will not be construed by itself without the aid of the other clauses in the same enactment. Clause 6 will have to be understood in the light of the previous clauses and, when clauses 5 and 6 are read together, it will appear quite evident that in the selection of the individual, the collector cannot exclude from appointment an individual, who is a member of the undivided family of the dismissed man. As the present law stands the collector must hit upon the person who is most suitable and who does not possess the disqualifications which the Hereditary Village Offices Act enumerates. I think it will be purely a surplusage if this amendment is added. If clause 5, which has already been amended, is left as it is, I do not think that clause 6 need be amended in the manner suggested. This makes it obligatory on the collector as it were to appoint invariably the individual next in succession. That would bring in some complications as to who is the next in succession. For an emergency measure like this, I do not think we need hedge it round with so many limitations at every stage and at every step which the collector has to take for enforcing its provisions. I should therefore beg of the hon. Member who has moved this amendment to withdraw this amendment in view of what has already been carried in clause 5."

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—"The difficulty arises on account of the existence of the words 'by the selection of a suitable person'. If these words are deleted, I am quite willing to withdraw my amendment."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I have not the least objection to delete the words 'by the selection of a suitable person'."

The hon. Sir LIONEL DAVIDSON :—"Sir, we are improving the words in this section. I would suggest that in addition to the words 'by the selection of a suitable person', the words 'either' and 'or' also be omitted. They are merely superfluous words; and 'or' is the correlative of 'either'."

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Clause 6—*cont.*

The amendment 26 of Mr. Ramalinga Chettiyar was, by leave, withdrawn.

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—
“Sir, I beg to move the following amendment to clause 6:—

Omit the words ‘by the selection of a suitable person’ occurring at the end of clause 6.”

Rao Bahadur T. A. Ramalinga Chettiyar seconded the amendment.

The amendment was put and carried.

Amendment 27.

The following amendment standing in the name of Mr. P. Siva Rao Garu was not moved and was therefore deemed to have been withdrawn:—

27. Expunge the clause altogether.

Clause 6, as amended, was passed by the Council and added to the Bill.

Preamble.

The preamble was then passed by the Council and allowed to stand part of the Bill.

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—
“I now beg to move that the Bill to amend the Madras Proprietary Estates' Village Service Act, 1894, and the Hereditary Village Offices Act, 1895, be passed into law.”

The hon. Mr. K. Srinivasa Ayyangar seconded the motion.

Mr. C. RAMALINGA REDDI:—“Sir, in supporting the motion that this Bill be passed into law, I request the Government to see that the executive instructions they propose to issue are issued in clear and unambiguous terms so as to guard the legitimate interests of the village officers. Nobody desires that the village officers should be punished unnecessarily, but, if they should act in concert with a movement whose avowed object is to paralyse the Government, then they deserve no sympathy. I am not a believer in mass punishments as a mode of inculcating moral lessons. However inevitable the action that we take may be, yet we must proceed with care. It is therefore I plead that, for the sake of the future peace of the country, the Government should exercise great care, all possible care, in issuing their executive instructions. I know, Sir, how anxious is the hon. the Revenue Member to do good to the rural population. He is a most genuine friend of the rural classes and I hope that my appeal will not go in vain. It would also be in consonance with the real spirit of the Act, if the instructions they issue are laid on the table of this House. With these few words, Sir, I heartily support the passing of this Bill into law.”

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—
“I thank the hon. Member Mr. Ramalinga Reddi for the kind suggestions made by him.”

The question that the Bill to amend the Madras Proprietary Estates' Village Service Act, 1894, and the Hereditary Village Offices Act, 1895, be passed into law was then put to the Council and carried.

The Bill was passed into law.

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III

RESOLUTION *re* THE ALTERATION OF RULE 12 (1) OF SCHEDULE X
OF THE MADRAS LOCAL BOARDS ACT, 1920.

2 p.m. The hon. Mr. P. RAMARAYANINGAR :—"Sir, I beg to move
the resolution that stands in my name,—

'In exercise of the powers conferred on them by section 201 (1) of the Madras Local Boards Act, 1920, the Local Government, with the approval by resolution of the Legislative Council, make the following rule altering rule 12 (1) of Schedule X of the said Act :—

In rule 12 (1) of Schedule X of the Madras Local Boards Act, 1920, as amended by notification No. 78, published on page 44 of Part I-A of the Fort St. George Gazette, dated 24th January 1922, for the words "twelve months" occurring in the first line the words "fifteen months" shall be substituted.'

"Under rule 12 (1) of Schedule X of the Local Boards Act the district boards have to notify the total and elective strengths of the taluk boards in their respective jurisdictions within 12 months after the Local Boards Act of 1920 came into force. The Act having come into force on the 1st April 1921, the district boards should have notified the elective and total strengths of the taluk boards before the 1st April 1922. But owing to the fact that the question of the bifurcation of the Dharmapuri Taluk Board was under correspondence with the Government, the District Board of Salem could not notify the total and elective strengths of that taluk board in time. The District Board, however, has now fixed the strength by a resolution. But it has to confirm the resolution by another resolution three months after the date on which the first resolution was passed. Thereafter the District Board has to notify the total and elective strengths. All that will take some time. Hence, Sir, is the necessity for the extension of the time."

The hon. Rai Bahadur K. VENKATA REDDI NAYUDU :—"I second it."

The resolution was put to the vote and carried.

The Council adjourned at 2-4 p.m. till 11 a.m. on Friday the 17th March 1922.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.

